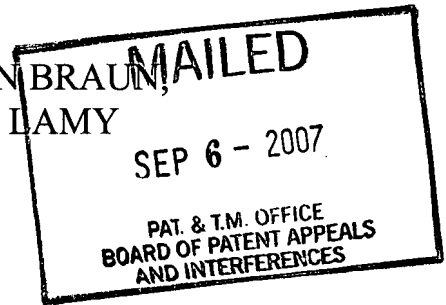


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS SENN, THORSTEN BRAUN,
SIMON GRETER, AND FRANCIS LAMY

Application No. 09/835,465



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on August 25, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On May 15, 2006, appellants filed an Appeal Brief. On page 3, under the heading "Grounds of Rejection to be Reviewed on Appeal" the Appellants stated:

- A. Claims **1-6, 8-26, 28-38, 40-41, and 43-44** are obvious under 335 U.S.C. 103(a) based on the teachings of U.S. Patent No. 5,528,261 to Holt et al. ("Holt") . . .

In response, an Examiner's Answer was mailed on July 26, 2006, 2007. While the Answer notes that "The appellant's statement of the grounds of rejection to be reviewed on appeal is correct" [page 2], the Examiner's Answer and the Final Rejection mailed January 12, 2005, the following § 103 rejections were made:

Claims **1-38, 40-41 and 43-44** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindsay Holt et al., U.S. Patent 5,528,261, 6/1996.

A clarification of the claims to be applied in the rejection is required.

In addition, the examiner relied on the following reference:

Bellevue Linux, Plain Text Definition, 2005, pp. 1-5,
http://www.bellevuelinux.org/plain_text.html

A review of the file reveals that references Lindsay Holt et al. (U.S. Patent No. 5,528,261, 6/1996) were used in the application of claims 1-38, 40-41 and 43-44 and Maribeth Back et al. (U.S. Patent No. 6,515,690, 2/2003) were used in the rejection of claims 39 and 42, as stated in the Grounds of Rejection, paragraph (9) of the examiner's answer. The Manual of Patent Examining Procedure, in § 1207.02 states:

(8) ***Evidence Relied Upon.*** A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.


Before further review, the examiner must mail a PTOL-90 that will include in the amended Evidence Relied Upon section, the list of all references mentioned in the statement of rejections. See the Manual of Patent Examining Procedure, (MPEP) § 1207.02. Appropriate correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner;

- 1) to give a proper explanation of the grounds of rejection;
- 2) issue and mail a PTOL-90 having the missing references listed under the Evidence Relied Upon section, heading (8) of the Examiner's Answer; and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
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